

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
ILLINOIS BELL TELEPHONE CO.)
)
Compliance with the)
Requirements of 13.505.1 of)
the Public Utilities Act) No. 05-0575
(Pay phone Rates.))
)
)
)
)
)
)

Chicago, Illinois
April 7, 2006

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

MS. EVE MORAN, Administrative Law Judge

APPEARANCES:

MICHAEL W. WARD
1608 Barclay Blvd.
Buffalo Grove, Illinois 60089
847-243-3100
for Illinois Public Telecommunications
Association;

1 LOUISE A. SUNDERLAND
225 W. Randolph
2 Chicago, Illinois 60606
312-727-6705
3 for Illinois Bell Telephone Co.;

4 MATTHEW L. HARVEY
160 N. LaSalle St. Suite C-800
5 Chicago, Illinois 60601
312-793-2877
6 for Staff.

7

8

9

10

11

12

13

14

15

16

17

18

19

20 SULLIVAN REPORTING COMPANY, by
Adrienne White, CSR
21 License No. 084-004614

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
(None.)					

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
(None.)		

1 JUDGE MORAN: Pursuant to the direction of the
2 Illinois Commerce Commission, I call Docket Number
3 05-0575. This is Illinois Bell Telephone Company.

4 It is a compliance for the requirements
5 of 13-505.1 of the Public Utilities Act. In parens:
6 Pay phone rates.

7 MS. SUNDERLAND: On behalf of Illinois Bell
8 Telephone, Company, Louise A. Sunderland, 225 West
9 Randolph Street, Chicago, Illinois 60606.

10 MR. HARVEY: For the Illinois Commerce
11 Commission, Staff, Matthew L. Harvey, 160 North
12 LaSalle Street, Suite C-800, Chicago, Illinois 60601.

13 MR. WARD: For the Illinois Public
14 Telecommunications Association, Michael Ward, 1608
15 Barclay Boulevard, Buffalo Grove, Illinois 60089.

16 JUDGE MORAN: Thank you. I would advise the
17 parties that a ruling has been developed with respect
18 to the parties' comments on the scope and the
19 direction of the proceeding.

20 That was sent down to the clerk's
21 office; however, it's not ready for service on the
22 parties due to the fact that the clerk's office needs

1 to call up the service list and Docket 98-0195, which
2 is not an E-Docket case, and tells me that it was not
3 able to make service yesterday.

4 I don't know if it'll go out today, or
5 if it will go out next week. And --

6 MR. HARVEY: If I might just enter an --

7 JUDGE MORAN: Let me just finish, Matt. And
8 the reason is because at the end of the ruling, I
9 direct service of this ruling to be made on those
10 parties. Okay.

11 MR. HARVEY: And this is just a -- sort of
12 housekeeping matter -- to the extent that there is a
13 finding, a service list at the clerk's office, I
14 think the Office of General Counsel does have that.

15 And we've maintained that and I
16 believe that we could -- we could make that, you
17 know, available to the clerk's office if that is
18 deemed to be necessary.

19 JUDGE MORAN: Okay. All right. That would be
20 great. And I will call the clerk's office today, and
21 inform them of that.

22 Let me set out what the ruling has in

1 it, so you have an idea, and so that maybe we can
2 discuss a few matters that are kind of open in my
3 mind. Okay.

4 I indicated at the outset that this
5 proceeding springs directly and exclusively from the
6 order of the Commerce Commission in Docket 0406.
7 What is it?

8 MR. HARVEY: 061, I believe, your Honor.

9 JUDGE MORAN: 04-0461. Right. Okay. I also
10 indicate that that order had a directive to SBC
11 Illinois which is now AT&T Illinois, and AT&T
12 Illinois compliance with that directive initiated
13 this proceeding.

14 And in it's statement in compliance,
15 AT&T set out that the first choice attempt at
16 reconciling the FCC's new services test, the order in
17 98-0195 and the imputation requirements of Section
18 13-505.1 of the Act just didn't work.

19 The Commission was clearly interested
20 in seeing whether updating LRSIC studies to a current
21 cost level would support rates high enough to pass an
22 imputation test, but what is of record and has been

1 prefiled by the parties to date, leads a reasonable
2 mind to conclude that the updated LRSIC study
3 approach contemplated by the Commission in the Docket
4 04-0461 order is not a hoped for solution.

5 The ruling further observes the
6 parties assertions on why the LRSIC methodology does
7 not solve the imputation problem.

8 It indicates that while the IPTA
9 appears to want to focus and challenge those study
10 costs, we believe it would take this Commission and
11 all the parties in the wrong direction.

12 And we don't really have a good
13 explanation how any proposed record development on
14 LRSIC costs might solve the problem.

15 And no challenge to the views and
16 assertions of staff and AT&T Illinois.

17 I think, and the ruling states, that
18 it's really explained by Staff and AT&T Illinois that
19 LRSIC is just not worth pursuing any further and
20 certainly not in the direction that IPTA would take
21 us.

22 The ruling also finds agreement with

1 Staff and finds that AT&T Illinois has shown cause of
2 a satisfactory nature why it cannot file rates that
3 are simultaneously compliant with the three factors,
4 and you all know that.

5 The new services test, the pay phone
6 order and the imputation statute and not certainly --
7 not in the way the Commission once expected.

8 The LRSIC route doesn't serve the
9 purposes of the proceedings, and it's time to move
10 on. That, of course, doesn't end the inquiry.

11 The question remains: What might
12 bring AT&T's rates into compliance? So basically the
13 ruling states that the LRSIC route is a failed
14 experiment -- it's a failed experience.

15 The next section is the TELRIC option.
16 And the ruling starts with observing a pronouncement
17 in the 04-0461 order which really gives direction to
18 this proceeding.

19 That statement in that 04-0461 order
20 says If there's a means by which to satisfy both the
21 FCC's mandate; meaning the NST and the requirements
22 of the Illinois Act, meaning Section 13-5051, it must

1 be done.

2 The ruling notes that both Staff and
3 AT&T maintained that an alternative and totally
4 lawful approach is to use TELRIC instead LRSIC costs.
5 The ruling relies heavily on Staff's assertions and
6 arguments, most notably that state commissions are
7 absolutely permitted to use TELRIC in developing
8 these rates.

9 There is much reliance on the pay
10 phone order itself, which Staff points out that the
11 Commission recognized the concept that a state may
12 use its accustomed TELRIC methodology to develop the
13 direct cost of pay phone line service costs.

14 And even though the Commission at that
15 point said LRSIC is generally used for such purposes,
16 the Commission did not, in any way, preclude the use
17 of TELRIC, and that's important. We're not going
18 against a settled finding.

19 MR. WARD: Which Commission do you refer to?

20 JUDGE MORAN: In this Commission. I'm not
21 referring at all to the FCC.

22 And in some, Staff tells us that it

1 believes it's clear that the pay phone order for new
2 services test give in the right places and offers a
3 solution to the dilemma at hand.

4 There is a reasonable path for going
5 forward. And on the representations of Staff and
6 AT&T Illinois, the Commission is persuaded that the
7 pay phone order entered in Docket 98-0195 can be
8 modified pursuant to Section 10-113 of the PUA.

9 And that the NST test on which it
10 rests, has the necessary flexibility for use of a
11 different methodology.

12 The Commission is also convinced that
13 such flexibility does not show itself in the
14 imputation law.

15 There are further directions here.
16 The ruling states that it does not appear at this
17 time that the cross subsidy test is of any relevance.

18 It is the intent of this proceeding to
19 modify as little as possible of prior order if such
20 can be fairly done.

21 So, too, the ruling states that the
22 UNE rates approved in Docket 02-0864 are a settled

1 matter even by the courts.

2 It is observed that not only was this
3 matter fully litigated by numerous parties and on the
4 very aspects suggested here, but the Commission
5 considered the critical question and determined that
6 whether SBC competitive services fail an imputation
7 test, is simply not relevant to our TELRIC
8 determination.

9 This very pronouncement taken together
10 with other relevant parts of the 04-0461 moves us to
11 reject any proposal in this direction. We see that
12 the IPTA seems to take another view of the situation
13 at hand.

14 And I refer here to the statement by
15 the IPTA that a full and complete record encompasses
16 not only a party's position as to how all
17 requirements may be satisfied, but also a party's
18 position as to why the requirements may not be
19 simultaneously met. From that statement I gather
20 that the IPTA appears to suggest that we might ignore
21 imputation all together.

22 The ruling states that this sort of

1 end cannot be determined at the outset before other
2 reasonable options have been testified and reviewed;
3 in other words, if this proposal is at all viable, we
4 must await the very record that IPTA contends we
5 should pursue. This means that the TELRIC proposal
6 supported by Staff and AT&T shall first go forward.

7 The objective at this juncture is to
8 develop a record in an efficient and expeditious
9 manner that would allow the Commission to determine
10 whether pay phone line rates can be established that
11 satisfy both the FCC's, NST and Section 13-5 -- or
12 1305.1.

13 Staff and AT&T Illinois believe this
14 can be done; thus, it seems prudent to proceed in
15 that direction. At the same time, it's been found
16 necessary to curtail some burdensome litigation or
17 relevant issues that do not ultimately advance a
18 solution to the imputation problem.

19 The last part of the ruling refers to
20 moving forward on the question of whether reopening a
21 docket or expanding parties. Staff suggests that we
22 could either reopen the pay phone proceeding or join

1 in this proceeding any of the parties that would be
2 impacted.

3 AT&T supports the use of this
4 proceeding, claims that a reopening of 98-0195
5 wouldn't be efficient. AT&T Illinois also doesn't
6 consider joinder to be necessary.

7 The main concern is the participation
8 of Verizon since it was a party to 98-0195, but AT&T
9 Illinois indicates that as long as Verizon is
10 provided appropriate notice, it can well enough
11 decide whether or not it wishes to participate.

12 Here we go. The ALJ believes it right
13 to reserve a final ruling on this procedural aspect
14 of the case until full and proper notice has been
15 served on any interested party in the proceeding;
16 that is, Verizon.

17 Thus, the clerk is directed to send
18 notice and a copy of this ruling to the service list
19 for 98-0195. This is intended to advise Verizon of
20 this proceeding and of the possibility that the NST
21 methodology approved in 98-0195 might be expanded to
22 include other approaches.

1 A status conference will be held at
2 the hour of 10:00 a.m. on April 20th, 2006 subsequent
3 to said notice being served and sufficient to allow
4 Verizon to appear and be heard on the procedural
5 aspect of the matter, if it so desires.

6 The notice will specify that if
7 Verizon has any views on the procedural paths being
8 proposed, it shall appear and be heard. Otherwise, a
9 determination will be made solely on the arguments of
10 Staff and the other parties.

11 See, I think it's important not only
12 to give them notice of the ruling, but notice of --
13 they should be able to have some input in how we're
14 going to go.

15 MS. SUNDERLAND: Sure.

16 MR. HARVEY: Sure.

17 JUDGE MORAN: Okay.

18 MS. SUNDERLAND: Yeah.

19 JUDGE MORAN: All right. The closing is that
20 AT&T has responded fully to the directives of the
21 Commission as set out in the 04-0461 order;
22 nevertheless, the problem identified in that order is

1 not yet resolved.

2 Therefore, this proceeding will
3 continue in the direction outlined above in the
4 manner and form to be discussed and decided upon at
5 the status here on April 20th. Okay? Now, you know
6 it all.

7 MS. SUNDERLAND: So we're not going to worry
8 about a schedule at this juncture?

9 JUDGE MORAN: This is what I want you guys to
10 do. I want you guys to start thinking on a schedule,
11 so that we can move quickly once we decide which way
12 we're going to go.

13 And you can already start working on
14 your testimony because you know which way this thing
15 is going to go. I have a question. And maybe you
16 guys can enlighten me before we go to that April 20th
17 status.

18 If we proceed in this case -- okay --
19 and not reopen 98-0159, would we need an amendatory
20 order in 98-0195 reflecting the outcome of this case?

21 MR. HARVEY: It would be my view that we might
22 very well need such an order. I mean the --

1 JUDGE MORAN: That's what I am thinking. I --

2 MR. HARVEY: The order specifically provides

3 for the use of LRSIC --

4 JUDGE MORAN: Mm-hmm. Mm-hmm.

5 MR. HARVEY: -- and in explicit terms.

6 And so to the extent that there is,

7 you know, information to determine, the parties could

8 at their election I guess use TELRIC in addition to

9 LRSIC, or instead of LRSIC then that -- there would

10 need to be an amendment to that order.

11 MS. SUNDERLAND: I'm -- I'm not so sure that

12 you need to do that.

13 MR. WARD: That's like saying every time you

14 had a rate case you had to go back and amend the

15 order in the previous rate case.

16 MS. SUNDERLAND: Right.

17 MR. HARVEY: But that's --

18 MS. SUNDERLAND: And when we implemented the

19 merger order remember in the --

20 JUDGE MORAN: Mm-hmm.

21 MS. SUNDERLAND: -- in the Alt Reg docket where

22 we had the merger savings settlement.

1 That settlement didn't look exactly
2 like what the Commission had prescribed in the merger
3 order for how we were going to flow through savings
4 --

5 JUDGE MORAN: Mm-hmm. Right. Right.

6 MS. SUNDERLAND: -- to end users.

7 But, we went ahead. You gave notice
8 to everybody from the merger order and then we just
9 went -- and in the Alt Reg docket and litigated and
10 ruled on the settlement proposal and you never went
11 back and attached some kind of amendatory order to
12 the merger order. We just did it.

13 JUDGE MORAN: Yeah.

14 MS. SUNDERLAND: I don't think you really need
15 to do that.

16 JUDGE MORAN: Okay.

17 MR. WARD: No, I don' think so either.

18 JUDGE MORAN: No? All right.

19 MR. HARVEY: Oh, well. All right.

20 JUDGE MORAN: It's something to --

21 MS. SUNDERLAND: Yeah.

22 JUDGE MORAN: -- think about. Okay. And if we

1 were to reopen 98-0195, then what? You need a
2 reopening order?

3 MR. HARVEY: I would think so. I mean this is
4 always been sort of the sticking point that Staff's
5 had about this.

6 It would appear to us and again,
7 obviously, we don't necessarily and entirely agree
8 about this, but, you know, in Staff's view the -- the
9 98-0195 order doesn't set rates so much as provide a
10 formula by which they are set.

11 JUDGE MORAN: Okay. Okay.

12 MR. HARVEY: And to the extent that is a thing
13 of universal application, which I think we understand
14 it to be. I mean at least I do. You know, to all
15 ILECs in the absence of rates set in some other
16 manner between and among the parties that use those
17 rates.

18 I would suggest that it probably, you
19 know, should be open and notorious and in a
20 Commission order that you can do that. You know, you
21 can use TELRIC if you elect to do.

22 And I mean I guess it might very well

1 be six on one and half a dozen on the other, but I
2 really have to go back and give that some thought
3 before I could agree with counsel that -- that this
4 was sort of a purely procedural and somewhat trivial
5 matter, I guess.

6 MS. SUNDERLAND: Well, I'm not suggesting that
7 it needs to be procedural or trivial to do it this
8 way.

9 I'm saying you can make a substantive
10 change in a subsequent order without having to go
11 back and formally amend the original order.

12 JUDGE MORAN: Right. Right. You know, my
13 concern is not amending the original so much. I mean
14 we always use that term amendatory order, but I guess
15 just to give notice for anybody looking at that
16 because that has the caption. Do you know what I
17 mean? If I were looking for a case --

18 MS. SUNDERLAND: If you were like doing Lexis
19 --

20 JUDGE MORAN: How would I know that that --

21 MS. SUNDERLAND: That it's different.

22 JUDGE MORAN: Right. Right. That has always

1 been a concern of mine.

2 MS. SUNDERLAND: Basically you just want a way
3 to tag it to -- you know, but also see.

4 JUDGE MORAN: Yes. Yes. See also, right.

5 MR. HARVEY: See, and if there was a way to do
6 that I'd be more comfortable with that. I'm just not
7 sure that --

8 JUDGE MORAN: The other way to do it maybe
9 because now when this computer world where you can
10 punch things in and everything ends on the top, it
11 comes up, is maybe -- is maybe amending the caption
12 of this docket to include some reference to --

13 MS. SUNDERLAND: You know, it's really not that
14 different from shepardizing a case, I mean.

15 JUDGE MORAN: -- 98-0195. Mm-hmm.

16 MS. SUNDERLAND: When a court -- yeah. The
17 case gets decided and if you want to know what
18 happened to that case, you have to, you know, either
19 electronically or using Shepard's kind of follow it
20 through.

21 If anyone puts in 98-0195 into a
22 search engine, they're going to find this order.

1 JUDGE MORAN: They will find this order.

2 MS. SUNDERLAND: Because it's going to be in
3 the text of the decision.

4 JUDGE MORAN: Okay.

5 MR. HARVEY: Well, I mean I guess I'd be a
6 little less -- you know, maybe there's a case to be
7 made for doing it that way provided there's a
8 specific finding that the -- you know, we hereby
9 amend our order in Docket No. 98-0195 to provide that
10 -- where we adhere thereto provided at page 34 that
11 parties --

12 MS. SUNDERLAND: Yeah.

13 MR. HARVEY: -- were that ILEX were required to
14 use LRSIC, you know, minus no PICC or, you know,
15 times markup or whatever the formula actually is to
16 develop their pay phone network rates.

17 We now are of the opinion that, you
18 know, they may as well use TELRIC at their election.
19 And -- and --

20 JUDGE MORAN: Based on, you know, blah, blah,
21 blah this docket.

22 MR. HARVEY: I mean I can't --

1 JUDGE MORAN: Yeah. That's what I'm looking.
2 If you found something like that, I think I would be
3 comfortable with that.

4 MR. HARVEY: -- hard for --

5 MS. SUNDERLAND: I think that can be worked
6 into the text of the order.

7 JUDGE MORAN: Okay. Fine.

8 MS. SUNDERLAND: In a way that it'll --

9 JUDGE MORAN: Okay.

10 MR. HARVEY: I guess I can't say I'm not
11 thrilled about that but I guess I could --

12 JUDGE MORAN: Then -- then -- would -- what I
13 guess what that does for me is that makes me more
14 comfortable with staying in this proceeding knowing
15 that someone is not thinking that's the final word.

16 MR. HARVEY: Well, let me just --

17 JUDGE MORAN: You know.

18 MR. HARVEY: If you don't mind, the one thing
19 I'm going to do is whenever I got a vexing problem, I
20 wait for the two days a month when Pat Foster comes
21 in.

22 JUDGE MORAN: Ah, very good, very good.

1 MR. HARVEY: So --

2 JUDGE MORAN: Okay.

3 MR. HARVEY: You know.

4 JUDGE MORAN: Okay. So this is good. Let's

5 all think about this, so on the 20th, we can all make

6 -- or I can make a reason decision.

7 MR. HARVEY: Fair enough.

8 JUDGE MORAN: I mean I understand the

9 efficiencies and all that stuff, but I'm looking for

10 more -- more reasons to go in one direction or in the

11 other direction. Then by that time, Verizon may

12 weigh in on the issue too.

13 MR. HARVEY: Well, I mean I don't see here

14 necessarily a procedural or substantive due process

15 issue for anybody actually in the case. It's just

16 that -- this is a Commission order of application to

17 anybody that, you know, buys 62 of Dennis Muncie's

18 (phonetic) client.

19 Some find and, you know, decides he's

20 -- not that any of them are dumb enough to sell --

21 but, you know, decides he wants to reset his pay

22 phone rates or whatever. I don't even know whether

1 that's feasible under the agreement that was reached.

2 But, you know, there just seems to me
3 to be notice to the universal large of people
4 interested in this matter.

5 MS. SUNDERLAND: And I have been keeping
6 counsel for Verizon informally apprised of what's
7 going on.

8 JUDGE MORAN: Okay. Fine.

9 MS. SUNDERLAND: And I will --

10 JUDGE MORAN: Fine.

11 MS. SUNDERLAND: -- contact her again just to
12 make sure that she knows to look for this.

13 JUDGE MORAN: All right. All right. Good,
14 yes. They may be getting paper copies it's --

15 MS. SUNDERLAND: I'll -- I'll send her an
16 electronic version when I get my electronic version.

17 JUDGE MORAN: Okay. Good.

18 MR. HARVEY: The easiest way to make sure I
19 would not get notice of something is to send it to me
20 on paper, you know.

21 I mean it's like, you know, you could
22 -- you could send me a letter saying here's where

1 Jimmy Hoffa is buried. I would not be able to find
2 it. If all it was was, you know, was an actual paper
3 document.

4 JUDGE MORAN: All right. Is there anything
5 else we need to talk about or need anything --

6 MS. SUNDERLAND: Well, I think it might be
7 worth talking a little bit -- since you want us to
8 start thinking --

9 JUDGE MORAN: Yeah.

10 MS. SUNDERLAND: -- about where we go from here
11 rather than waiting till the 20th.

12 JUDGE MORAN: Yeah. Because I want, you know,
13 to --

14 MS. SUNDERLAND: To move this along.

15 JUDGE MORAN: Yeah. Let's move this along.

16 MS. SUNDERLAND: I think from our -- AT&T
17 Illinois' perspective, we pretty much laid out our
18 position.

19 Where we thought we should go i.e.
20 using TELRIC, and we put into Mr. Panthos' (phonetic)
21 direct testimony what those rates would look like.

22 JUDGE MORAN: Okay.

1 MS. SUNDERLAND: So we --

2 JUDGE MORAN: So that's out there.

3 MS. SUNDERLAND: So that's out there. You

4 know, it seems to me that maybe the next step would

5 be to give Staff and the IPTA an opportunity to file

6 a revised direct testimony.

7 JUDGE MORAN: Okay.

8 MS. SUNDERLAND: Now that we all understand

9 what we're doing here.

10 JUDGE MORAN: All right.

11 MS. SUNDERLAND: But for, you know, I don't

12 have anything more to say at the moment.

13 JUDGE MORAN: Okay.

14 MS. SUNDERLAND: I mean my client doesn't.

15 JUDGE MORAN: I understand.

16 MR. HARVEY: Yeah. I mean I think our direct

17 testimony at this point was not exactly robust. I

18 think we, you know, said that we took a pass at

19 Panthos TELRICs and --

20 JUDGE MORAN: Mm-hmm.

21 MR. HARVEY: -- you know, nothing jumped up --

22 you know, on the plate and said I'm bad, but I think

1 that to the extent that this was the way the case
2 going we wanted to take a somewhat more detailed look
3 at that --

4 JUDGE MORAN: Sure. Sure.

5 MR. HARVEY: -- under the circumstances --

6 JUDGE MORAN: Oh, absolutely.

7 MR. WARD: We need to understand what it is
8 you're envisioning for the hearing. Now, I
9 understand the ruling.

10 Your ruling that the TELRIC
11 methodology can be used to establish the cost basis
12 for rates to pay phone services, providers.

13 JUDGE MORAN: Yes.

14 MR. WARD: So appraised. I'm going to come
15 forward and you said talk about the policies to
16 establish what those costs are?

17 MR. HARVEY: Well, I think the TELRICs -- the
18 costs have already been established is my
19 understanding. I mean I --

20 MR. WARD: I don't believe there's any evidence
21 in this record as to what the ongoing costs using a
22 TELRIC methodology is.

1 MS. SUNDERLAND: As I understood the ruling,
2 we're going to take what came out of Docket 02-0864
3 as a given, correct?

4 JUDGE MORAN: Right.

5 MR. WARD: Well, we would strenuously object to
6 that. That would unrecognize our due process rights.
7 The FCC requirements are that you must establish the
8 rates based upon cost. We had a cost docket,
9 98-0195, establish whatever the rates were set at
10 that time.

11 Now, the ruling is that a different
12 methodology can be used. In which case, then the
13 cost would have to be established based upon that
14 methodology.

15 Now, back at the Commission 22-months
16 ago, established what they felt the TELRIC costs were
17 back then does not apply to pay -- this afternoon
18 establishing the cost of the pay phone rates.

19 Now, we know in particular the
20 Commission had decided what the economic costs of
21 these facilities were in November of 2003. In June
22 2004, which is about 8 months later they decided the

1 economic cost had changed in those 8 months.

2 Now, it's 22 months later. We want to
3 know what the costs are based upon that methodology
4 that are going to be establishing the rates coming
5 out of this docket.

6 And we have a right to present
7 evidence as to what those costs are if we're going to
8 have a different methodology.

9 MS. SUNDERLAND: What he's trying to turn this
10 back into is a huge --

11 MR. WARD: I'm not trying to turn it into
12 anything.

13 MS. SUNDERLAND: -- contract again.

14 MR. WARD: I didn't ask for this docket. We
15 spent a long time doing the old docket. We are the
16 last party in this room that wants another docket,
17 but I understand the ruling is that we're going to
18 use a different methodology. In which case, we have
19 to establish what the costs are under that
20 methodology.

21 MR. HARVEY: And I would suggest that the costs
22 have been established in a highly litigated docket to

1 which the IPTA was a party, and the notion that we
2 have to -- every time there is a -- anybody who feels
3 that costs have changed, we have to go back run -- or
4 SBC I mean -- I beg your pardon -- AT&T, you know,
5 there have to be new TELRIC studies run, and
6 everybody has to review those, every time any cost
7 changes.

8 I think that's something that is so at
9 variance with, you know, any notion of getting things
10 done in a timely and economic manner that I just -- I
11 can't see how we can do that. It's -- it's --

12 MR. WARD: We certainly don't look forward to
13 the docket, but if that's the ruling, that's the
14 situation where we're placed in.

15 The ITB had intervened in the TELRIC
16 docket from I think it was an '02 docket. It was on
17 that part of the document, as the record will show,
18 nor does an intervenor in the docket have the burden
19 of proof or any obligation in that docket.

20 JUDGE MORAN: What docket are we talking about?

21 MS. SUNDERLAND: 0208.

22 MR. WARD: 02-0864 is it?

1 JUDGE MORAN: The UNE --

2 MS. SUNDERLAND: UNE Docket, yeah.

3 JUDGE MORAN: Okay.

4 MR. WARD: Now, it's a totally different
5 situation. Now, you're talking about the rates that
6 are being charged directly to our members. They
7 actively participated for six years in the 98-0195
8 docket.

9 Now, if there's going to be a
10 redetermination of what it took six years to put
11 together, we have a right to present our case.

12 And we have a right demand the burden
13 of proof on AT&T Illinois to present their case as to
14 what those costs are.

15 If they're going to change the
16 methodology, then we want to see what the costs are.
17 We want to establish a -- our rights to a hearing.
18 And we're entitled as a matter of due process. And
19 we will insist upon that.

20 We reluctantly have heard the ruling
21 from this -- from the ALJ, but that's what the ruling
22 is. And if that's what the ruling is, then that's

1 the position we're put in.

2 JUDGE MORAN: Well, if -- when you get the
3 ruling, you can take a petition for interlocutory
4 review.

5 MR. WARD: I'm sure that will be necessary.

6 JUDGE MORAN: I mean that'll -- that'll resolve
7 it right now.

8 MR. HARVEY: You know, that may be the best
9 approach to it is to build some time into whatever
10 schedule and -- and let the Commission, you know,
11 hear this, you know, this -- this ruling and, you
12 know, deal with whatever due process issues need to
13 be raised.

14 JUDGE MORAN: I mean that's what he -- I can't
15 --

16 MS. SUNDERLAND: But based on -- based on the
17 ruling --

18 JUDGE MORAN: Okay.

19 MS. SUNDERLAND: -- I understand that the UNEs
20 are to be a given.

21 JUDGE MORAN: Right.

22 MS. SUNDERLAND: The UNE rates are a given.

1 JUDGE MORAN: Right.

2 MS. SUNDERLAND: Okay. So unless and until the
3 Commission changes that, that is the direction that I
4 presume we're all expected to file, and we should --
5 people should be preparing testimony based on that
6 assumption, correct?

7 JUDGE MORAN: Right.

8 MR. HARVEY: Well, maybe it would be prudent I
9 guess, you know, I assume the notices are already
10 gone out, your Honor, that to convene on the 20th?

11 JUDGE MORAN: Yes. Well --

12 MR. HARVEY: Okay. See, because it sounds like
13 we may need to -- before we can think about a
14 schedule, we may need to look at the Commission's
15 calendar. So Mr. Ward can take his petition up and,
16 you know, get it before the Commission in such time
17 as, you know, to get it. Whatever the Commission's
18 views are on it, so that we can proceed from there.

19 JUDGE MORAN: Okay. You know what? Let's go
20 off the record.

21 (Whereupon, a discussion was had
22 off the record.)

1 JUDGE MORAN: Parties have discussed just
2 generally some schedule considerations, and it is now
3 resolved that we're going to continue this case to
4 April 20th, 2006, at the hour of 10:00 a.m. for the
5 reasons specified in the ruling.

6 MR. HARVEY: I guess nothing further from
7 Staff, your Honor.

8 JUDGE MORAN: Okay.

9 MS. SUNDERLAND: Nothing further from AT&T
10 Illinois.

11 MR. WARD: Same with IPTA.

12 JUDGE MORAN: Great.

13 MR. HARVEY: Thank you very much, your Honor.

14 JUDGE MORAN: Thank you. Thank you.

15

16

17 (Whereupon, the above matter was

18 continued to April 20, 2006, at.

19 10:00 a.m.)

20

21

22